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5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF WASHINGTON

7 BLUZ, INC., a Washington Corporation,)
8 Plaintiff,)

9 v.)

10 PHOENIX IV, INC. a Washington)
11 corporation, and CHRIS WARREN, an)
12 individual.)

13 Defendants.)
14)
15

No. CV-10-070-RMP

ORDER GRANTING
DEFENDANT'S MOTION TO
DISMISS BASED ON FAILURE
TO PROSECUTE

16 This matter comes before the Court on Defendant's Motion to Dismiss
17 Based on Failure to Prosecute, or in the alternative, Defendant's Motion for
18 Summary Judgment, ECF No. 12. The Court held a telephonic hearing on
19 April 28, 2011, at which Duncan Turner was present on behalf of Defendants.
20 This order memorializes and expands on the Court's oral ruling.
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22 The Court had been notified by Mr. Turner of the February 23, 2011,
23 death of Plaintiff's counsel of record, Mr. Randy Alan Gregory. In addition,
24 defense counsel represented that he had communicated with Mr. Gregory's
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ORDER GRANTING DEFENDANT'S MOTION TO
DISMISS- 1

1 Personal Representative, Mr. Thomas M. Culbertson, regarding representation
2 of Bluz, Inc. in this case, and had communicated with Mr. Douglas Brajcich,
3 the registered agent of Bluz, Inc., regarding this case. In addition, the Court
4 contacted both Mr. Culbertson and Mr. Brajcich regarding defendants' pending
5 motion to dismiss or for summary judgment and the scheduled telephone
6 conference call for today's hearing. However, no one appeared on behalf of
7 Plaintiff.
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10 Having reviewed the motion and having heard from counsel, the Court
11 finds that the Plaintiff has failed to prosecute this matter and dismisses pursuant
12 to Fed. R. Civ. P. 41(b). Accordingly,
13

14 **IT IS HEREBY ORDERED:**

- 15
16 1. Defendant's Motion to Dismiss Based on Failure to Prosecute (**ECF**
17 **12**) is **GRANTED**. Plaintiff's Complaint and any and all
18 counterclaims and/or cross-claims are **DISMISSED WITH**
19 **PREJUDICE** and without costs to any party.
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21 2. All pending motions, if any, are **DENIED AS MOOT**.
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3. All scheduled court hearings, if any, are **STRICKEN**.

The District Court Executive is directed to enter this Order, provide copies to counsel, and **CLOSE** this file.

DATED this 28th day of April, 2011.

s/ Rosanna Malouf Peterson
ROSANNA MALOUF PETERSON
Chief United States District Judge